



Institute on Religion and Public Policy Report:

Religious Freedom in Cuba

Executive Summary

Religious freedom in Cuba is beginning to see marginal improvement, but remains strictly limited. The few positive steps the Communist regime has taken are overshadowed by the fact that the government rigidly controls the free exercise of religion via its Constitution and laws. The government actively engages in an abuse of its power by continuing to monitor, infiltrate and harass religious groups.

Institute on Religion and Public Policy

The Institute on Religion and Public Policy is an international, inter-religious non-profit organization dedicated to ensuring freedom of religion as the foundation for security, stability, and democracy. The Institute works globally to promote fundamental rights and religious freedom in particular, with government policy-makers, religious leaders, business executives, academics, non-governmental organizations and others. Twice nominated for the Nobel Peace Prize, the Institute encourages and assists in the effective and cooperative advancement of religious freedom throughout the world.

History of Religious Freedom and Politics in Cuba

The current Cuban regime traces its roots back to the 1959 revolution that brought Fidel Castro to power. Though relations between religious institutions and the Cuban government were initially amicable, Castro gradually began to see religious groups as a threat to his hold on power. Originally the Constitution described Cuba as an atheist state, and until 1991 Christians were not permitted to join the Cuban Communist Party. The Cuban government enacted a new Constitution in 2002 that removed the reference to atheism and instead simply affirmed the separation of church and state. Though Christians are no longer banned from membership in the Communist Party, many refuse to join for reasons of conscience; using similar reasoning, many religious organizations refuse to register with the government. In 2008, Fidel Castro became ill and effectively transferred power to Raul Castro, who has done little to improve Cuba's human rights record.

Religious Freedom and the Law

Cuba's Constitution guarantees religious freedom in principle; Article 55 of the Constitution purports to "recognize, respect and guarantee freedom of conscience and religion" and guarantees the right to "change religious beliefs or not to have any." However, expression of religious beliefs is protected only "within the framework of respect for the law." Moreover, Article 62 explicitly states that the enumerated protected freedoms (such as the freedom of conscience and religion) cannot be exercised if they contravene the Constitution, law, or are "contrary to the existence and objectives of the socialist state, or contrary to the desire of the Cuban people to build socialism and communism." It further holds that anyone who violates this principle may be subject to punishment. As a result, though purporting to guarantee religious freedom, Cuba's Constitution gives the government substantial latitude to control religious activity.

Cuban criminal law takes advantage of the punishment provisions contained in Article 62 of the Constitution. Article 206 of the Cuban Penal Code is directed at abuse of religious freedom, and declares it a punishable offense to maintain a religious belief that is counter to state objectives, particularly in areas such as education and defense. This provision is fundamentally anathema to religious freedom standards because of its vague language that creates a statute under which the government can improperly restrict or prohibit religious freedom. The penal code contains many other problematic provisions, but many of these provisions are problematic for religious liberty because of their implementation rather than their plain language. For instance, Articles 100, 103, 143 and 147, which prohibit (respectively) sedition, enemy propaganda, resistance, and disobedience to authority, have been employed against both political and religious dissidents. Statutes dealing with "enemy propaganda" or "acts contrary to Cuban independence" are especially pernicious because they allow government authorities to brand religious dissenters as American agents seeking to bring down the regime. Many other provisions in the criminal code, though their plain meaning and current enforcement do not violate religious freedom, are nonetheless potentially hostile to it if the state chooses to employ them. For instance, Articles 72 through 74 provide multiple remedies against anyone who is in a "dangerous state," a term susceptible to disturbingly broad interpretation. The statutes also provide for "reeducation" as one of the remedies against someone in a "dangerous state," a particularly unsettling remedy given the long history of communist governments seeking to "reeducate" those who dissented against the regime or its practices.

The formal legal structure around religion in Cuba is somewhat ambiguous. The Law of Associations, which lays out many of the rights and obligations of social organizations, states that its terms do not include "ecclesiastical or religious associations." However, current evidence indicates that the law is being applied to religious associations, and its statements of rights and duties correspond with those that are currently imposed on religious organizations. It explicitly

contemplates a new law that will deal specifically with religious organizations, but because no such law has been passed despite continuing advocacy efforts, the Law of Associations appears to serve as a temporary placeholder.

Under the Law of Associations, religious groups are required to register with the government. When they register they must submit (among other things) their name, fundamental beliefs, the geographic area in which they intend to work, and the rights and duties of their members. If another religious organization in that same geographical area is judged to have “identical or similar objectives,” registration is denied. This provision creates problems for evangelical groups that do not operate with a centralized, hierarchical system because many of them have “identical or similar objectives” despite having a distinct set of beliefs. When a religious association has its registration application denied the only way for the organization to continue is by operating illegally.

In addition, Cuban laws on immigration give recognized associations the exclusive right to invite international guests to the country. If a foreigner who is associated with an unrecognized association wants to visit Cuba, that person must go through a lengthy process themselves. Moreover, only recognized religious groups have the legal right to import religious materials. Religious groups must obtain a permit in order to construct churches, but the government has been extremely reluctant to grant such permits. Some organizations contend that the Cuban Foreign Ministry explicitly prohibits giving tourist visas to anyone with a religious visa from the United States.

“House churches” are strictly limited, particularly with the recent passage of Resolution 46 and Directive 43. A “house church” can be a home that is sometimes used for religious worship, an abandoned church currently used for worship, or even a building used exclusively for religious worship whose construction was not authorized. The Resolution defines them simply as churches in houses of personal property. By the terms of Resolution 46 and Directive 43, all house churches must be registered with the government. They cannot have more than three meetings per week and foreign citizens cannot participate. The days and hours in which they can meet are strictly regulated. A house church cannot legally exist unless it requests authorization from the government, and in doing so it must include detailed information about both the property owner and about every attendee. In addition to the many other limitations placed on these churches, they cannot use any sound amplification device (such as a microphone system) without the approval of neighbors (and some have reportedly been forbidden from using them at all). The law explicitly states that house churches may be subject to government supervision, and that if they fail to meet the extensive legal requirements imposed on them, their registration may be suspended for up to a year or even canceled entirely. Many clergymen object to this law, and note that many houses churches are created precisely because the government often does not authorize the expansion of current houses of worship or the construction of new ones.

In 2008, although the Cuban legislature has not yet ratified the treaty agreements, Cuba became a signatory to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESC), with reservations. The ICCPR prohibits arbitrary arrest and detention and requires signatory states to respect the freedom of religion and belief, though it acknowledges exceptions for “public safety, order, health or morals.” Because Cuba is a member of the United Nations, any violation of Cuba’s obligations under the ICCPR entitles a Cuban citizen to sue the Cuban government before the International Court of Justice. This may not be especially helpful to Cuban citizens because citizens cannot leave the country without authorization from the government. Hopefully, however, it represents a positive step towards greater religious freedom.

Religious Freedom in Practice

Though many of Cuba’s laws do not clearly implicate religious freedom, they are often enforced in a manner that does. Because the Cuban government perceives religion as a potential threat to the government’s authority and popular legitimacy, the government aims to keep religion under control so that religious organizations cannot effectively challenge the state’s actions. Accordingly, it rewards relatively suppliant congregations and religious groups and often punishes those that speak out. Religious organizations have consistently reported surveillance, infiltration, harassment and sometimes even threats from government agents. Many congregations, particularly house churches and those who have spoken out against the Cuban government’s policies, have been infiltrated by government agents and subject to ongoing surveillance. Several religious publications critical of the government have shut down due either to government pressure or to government-inflated prices on printing supplies. Pastors speaking out against the lack of religious freedom in Cuba, or merely refusing to give public support to a particular CCP policy, have been harassed and even subject to vandalism by government-inspired mobs. Pastor Eric Gabriel Rodriguez, President of the Interdenominational Fellowship of Evangelical Pastors and Ministers, broke with the Cuban Council of Churches in September 2008 over state interference in church affairs. As a result, the Cuban government stripped of his position and placed him under house arrest for “offensive behavior.”

There have also been reports of violence. In 2007, members of the Saint Teresita Catholic Church who had participated in a political protest earlier in the day were beaten while attending mass. Churches have also been seized by the government, and there is at least one confirmed report of a church being destroyed. In 2007, the Church of the Apostles in Santiago de Cuba was torn down by construction workers and all of its property seized. The pastor’s house, from which he and his family were ordered to evacuate, was converted into a government maternity home. Similarly, in 2006, a building that served both as a

pastor's house and a worship center was confiscated, and the pastor and his family were moved to a new home in which no religious services were permitted. So far, one church building has been returned to a Baptist congregation after the seizure attracted international attention, but many seizures of churches have gone un-redressed.

At least one pastor (living in central Cuba) has been subject to an Act of Repudiation, which essentially refers to harassment and often destruction of property by a mob, typically directed against individuals who are seen as opponents of the regime. The government insists that these mobs form spontaneously, but there is strong evidence that they are often supported by government security forces. Rarely is punitive action taken against them. After the pastor had refused multiple requests by local CCP officials to enroll his children in communist youth programs, the mob yelled at him for hours and broke down his front gate.

House churches in particular have been targets of government harassment. In addition to the official conditions that Resolution 46 and Directive 43 prescribe, house churches may be broken up and their members arrested if any neighbors complain of a disturbance. Allegations have been made that government agents sometimes buy up property adjoining a house church so that they can file a complaint and have the church closed down. There are also reported cases of government agents intimidating house churches into shutting their doors. According to reports, there are thousands of house churches that the government is either unaware of or chooses not to act against. However, since Resolution 46 was passed, there are reports that at least 3 Protestant house churches have been shut down and demolished.

Citizens are often subject to harassment when the tenets of their religion conflict with Cuba's law. Jehovah's Witnesses have been harassed and even arrested for refusing to salute the flag or complete mandatory military service. Some parents of Jehovah's Witnesses reported that because they refused to let their children participate in Communist Party activities at school, the government threatened to prosecute them under the Penal Code for Acts Contrary to the Normal Development of a Minor. Other Jehovah's Witnesses, along with some Seventh-Day Adventists, alleged that they faced discrimination for refusing to work on Saturdays. The Cuban government has entered into an agreement with the Church of Jesus Christ of Latter-Day Saints that allows them to hold weekly meetings but forbids their members from proselytizing. In addition to harassment, many religious individuals who refuse to join the Cuban Communist Party, or who choose to leave it upon conversion, face discrimination. This discrimination is especially destructive because CCP membership is often an essential ingredient of success in both academic and professional settings.

All of these problems are compounded by the overarching human-rights issues that still plague Cuba. The same expansive police powers that allow surveillance

of protestors in general facilitate ongoing the government's ongoing observation and infiltration of religious organizations. Cuba's poor prison conditions and tendencies to hold people for extended periods of time have been verified by multiple organizations and observations, and they make government threats of punishment even more coercive.

The Cuban Council of Churches, composed of representatives from 37 religious organizations, is a private organization that generally avoids criticizing the government. As a result, the government provides it unique benefits. For instance, even though congregations such as the Evangelical Lutheran Church have not undergone registration and thereby lack legal status, they are recognized by virtue of their CCC membership. Member congregations of the CCC tend to be subject to less infiltration and observation than do their non-CCC counterparts.

Despite the government's ongoing restrictions of religious freedom, some improvements have been reported. In addition to signing the ICCPR and the International Covenant on Economic, Social and Cultural Rights (ICESR), Cuba gave members of its Jewish community more freedom to visit Israel. In 2008, the Vatican Secretary of State met with Raul Castro and unveiled a statue commemorating the ten-year anniversary of the Pope's last visit. Some groups contend that restrictions on their activities have begun to diminish; there were reports of prayers for political prisoners, groups having easier access to imported materials, and increased restoration of houses of worship. In 2008, the CCC-sponsored Inter-Religious Forum met to condemn the recent State Department report on the status of religious freedom in Cuba. As much as one would like their optimistic appraisal to be accurate, it suffers from the twin faults of relying on a selective sample of congregations that experience comparatively favorable treatment from the government and ignoring both the plain meaning and actual implementation of existing law. Though there are extremely tentative indications that religious freedom is beginning to improve in some respects, it has a long way to go.

United States Policy

United States policy towards Cuba centers on efforts to transition from the Castro dictatorship into a democratic society. Since 1962, the United States has maintained an embargo against Cuba as a means of forcing democratic reform. The embargo was strengthened in 1996 via the Helms-Burton Act, and relaxed marginally during the Clinton Administration. In October 2003, President Bush created the Commission for Assistance to a Free Cuba to facilitate a swift and peaceable transition to democracy and provide any aid that a post-dictatorship Cuba might seek. Though there have been no recent attempts to assassinate either Fidel or Raul Castro, the United States (under Helms-Burton) refuses to lift its embargo until a democratically-elected government comes to power that includes neither Fidel nor Raul Castro. The United States also urges allies and

partners in the international community to promote democracy and human rights in Cuba.

Conclusion

Though religious freedom in Cuba appears to be experiencing slight improvement in some limited respects, many religious groups are severely restricted in their activities. Government restrictions are beginning to loosen in some areas and at least some groups have been able to speak out without government retribution. However, many congregations report continuing harassment, many confiscated houses of worship have yet to be returned, and many religious individuals still face discrimination. Cuba's assurance of religious freedom means little so long as the Constitution allows religious freedom to be overruled for virtually any purpose the government deems worthy, and laws are designed or employed against religious dissenters.